

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P040314WO gr	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/EP2004/004169	International filing date (day/month/year) 20.04.2004	Priority date (day/month/year) 28.04.2003
International Patent Classification (IPC) or national classification and IPC		
Applicant GFE MEDIZINTECHNIK GMBH		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 6 sheets, including this cover sheet.

3. This report is also accompanied by ANNEXES, comprising:

a. ☐ (sent to the applicant and to the International Bureau) a total of _____ sheets, as follows:

☐ sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).

☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.

b. ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

<input checked="" type="checkbox"/>	Box No. I	Basis of the report
<input type="checkbox"/>	Box No. II	Priority
<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/>	Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input checked="" type="checkbox"/>	Box No. VI	Certain documents cited
<input type="checkbox"/>	Box No. VII	Certain defects in the international application
<input type="checkbox"/>	Box No. VIII	Certain observations on the international application

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

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International application No.

PCT/EP2004/004169

Box No. I

Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the **elements** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-7 _____ as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. 1-8 _____ as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* _____ received by this Authority on _____
- nos.* _____ received by this Authority on _____
- ☒ the drawings:
- sheets 1/1 _____ as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1-8	YES
	Claims		NO
Inventive step (IS)	Claims	1-8	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-8	YES
	Claims		NO

2. Citations and explanations (Rule 70.7)

This report makes reference to the following document:

D1: WO 92/10218 A (W.L. GORE & ASSOCIATES INC) 25 June 1992 (1992-06-25)

D1 is regarded as the prior art closest to the subject matter of claim 1. It discloses (the reference signs in parentheses refer to D1):

a flat surgical insert (page 5, lines 18-25, figure 1) for preventing tissue adhesion in operation areas, in particular for post-operative care after pericardial, peritoneal or gynecological operations, comprising

- at least one layer of a thin, smooth, bioabsorbable film (12, page 5, lines 18-25, figure 1)

and

- a stabilizing layer, in the form of a reinforcing matrix (10, page 5, lines 18-25, figure 1) made of synthetic material, connected to the film layer (12, page 5, lines 18-25,

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

figure 1).

The subject matter of claim 1 differs from the known flat insert in that the reinforcing matrix has a continuous metal-containing coating that is compatible with the body.

Therefore, in view of the differences in the subject matter, claim 1 is novel and meets the requirements of PCT Article 33(2).

The effect of said flat insert structure is regarded as that of improved mechanical stability in the operation area and improved compatibility of the synthetic reinforcing matrix remaining in the patient's body.

Therefore, the problem to be solved can be regarded as that of providing a flat surgical insert with long-term mechanical stability and compatibility with the body.

Although D1 proposes a flat insert with a smooth bioabsorbable film and tissue (page 5, lines 18-25, figure 1), there is nothing that suggests that this flat insert fulfills a stabilizing function in the body of the patient over the long term, after the film has disintegrated, by means of a coated reinforcement matrix.

Therefore, in view of the prior art cited in the international search report, the subject matter of

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citations and explanations supporting such statement

the invention according to claim 1 appears to involve an inventive step and therefore to meet the requirements of PCT Article 33(3).

Flat surgical inserts for preventing tissue adhesion in operation areas according to claim 1 can be manufactured industrially and therefore also meet the requirements of PCT Article 33(4).

Claims 2-8 are dependent on claim 1 and therefore likewise meet the PCT requirements for novelty, inventive step and industrial applicability.

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Box No. VI Certain documents cited

1. Certain published documents (Rule 70.10)

Application No.
Patent No.

Publication date
(day/month/year)

Filing date
(day/month/year)

Priority date (valid claim)
(day/month/year)

2. Non-written disclosures (Rule 70.9)

Kind of non-written disclosure

Date of non-written disclosure
(day/month/year)

Date of written disclosure
referring to non-written disclosure
(day/month/year)